

2011 DRAFTING REQUEST

Bill

Received: **02/20/2012**

Received By: **jkreye**

Wanted: **As time permits**

Companion to LRB:

For: **Chris Danou (608) 266-7015**

By/Representing: **dan bahr**

May Contact:

Drafter: **jkreye**

Subject: **Tax, Business - credits**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Danou@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Changing the order of computation for the dairy and livestock investment credit

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1							
/1	jkreye 02/20/2012	jdyer 02/28/2012	rschluet 02/28/2012		lparisi 02/28/2012	lparisi 02/29/2012	State

FE Sent For:

<END>

at intro
3-19-12

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	02/20/2012	02/28/2012	02/28/2012	_____	02/28/2012		

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/P1	jkreye	1/28 jld		==			

FE Sent For:

<END>

Kreye, Joseph

From: Bahr, Dan
Sent: Monday, February 20, 2012 2:35 PM
To: Kreye, Joseph
Subject: FW: Letter from Jeanne Fugina

From: Wagner, Michael W - DOR [mailto:MichaelW.Wagner@revenue.wi.gov]
Sent: Monday, February 20, 2012 12:50 PM
To: Bahr, Dan
Subject: Re: Letter from Jeanne Fugina

Dan,

I reviewed your constituent's letter regarding the loss of income tax reciprocity with Minnesota impacting the ability of her clients to carry forward dairy and investment credits.

Background

As you know, without income tax reciprocity, individuals working in one state and living in another have to file two tax returns. When Wisconsin residents have to pay taxes to another state, Wisconsin provides a credit for the taxes paid to the other state. However, many other tax credits also exist and the order in which they may be claimed is set forth by statutes (see 71.10(4), Wis. Stats.).

The Dairy Investment Credit is higher on the list than the credit for taxes paid to another state, which means that the Dairy Investment Credit is used first. Below is a generic example of how this plays out for a constituent with \$10,000 in tax liability and \$8,000 available dairy investment credits.

Tax Liability:	\$10,000
-Dairy Investment Credit:	<u>(\$8,000)</u>
Remaining Liability:	\$2,000
-Credit for Taxes Paid in another state:	<u>(\$5,000)</u>

= \$0 tax liability since the credits were greater than the liability (and since the credits are non-refundable, the constituent does not get a \$3,000 refund). Also, since the credit for taxes paid in another state is not able to be carried forward, the extra \$3,000 in credits (\$10,000 liability - \$13,000 credits = \$3,000 unutilized credits) are lost and cannot be claimed in the following year (use it or lose it principal).

However, if the equation were ordered differently, which your constituent would prefer, it would look like this:

Tax Liability:	\$10,000
-Credit for Taxes Paid in another state:	<u>(\$5,000)</u>
Remaining Liability:	\$5,000
-Dairy Investment Credit:	<u>(\$8,000)</u>

= \$0 tax liability with \$3,000 dairy investment credits available for the next year since unlike the credit for taxes paid to another state, they can be carried forward ("use it or lose it" does not apply to the dairy investment credit. Instead it's more like "use it now or save it for later").

Possible Legislative Responses

1. If the Legislature would like to change the computation order so that the second example occurs, it would need to amend Section 71.10(4), Wis. Stats.
2. However, if income tax reciprocity with Minnesota is reinstated, the above issue becomes somewhat irrelevant since only 1 tax return would need to be filed in Wisconsin and the credit for taxes paid in another state is a non-issue since Wisconsin residents would only be paying taxes to Wisconsin.
3. Finally, keeping the current order may/may not be preferable to the Legislature. One could make the argument that WI-based credits should be utilized first since WI is not receiving a direct benefit from taxes paid to another state.

Please let me know if you have any questions.

Regards,

Mike Wagner
Legislative Advisor, Dept. of Revenue
608-266-7817

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State of Wisconsin
2011 - 2012 LEGISLATURE

SOON

2011 BILL



LRB-4154/1

JK:.....

jld

in 2-20-12

✓

Gen

- 1 AN ACT ...; relating to: changing the computation order for the dairy and
2 livestock farm investment credit.✓

Analysis by the Legislative Reference Bureau

Under current law, an individual taxpayer may claim the income taxes paid to another state as a credit against the taxpayer's Wisconsin income tax liability. In order to calculate the taxpayer's tax liability, the taxpayer first claims all of the taxpayer's nonrefundable state income tax credits and then the credit for taxes paid to another state. If the amount of the credit for taxes paid to another state exceeds the taxpayer's tax liability, the taxpayer does not receive a refund of the excess amount and may not carry-forward the unused amount to subsequent taxable years.✓

This bill changes the computation order of tax credits for an individual taxpayer so that the dairy and livestock farm investment credit is claimed after the credit for taxes paid to another state. If the amount of the calculated credits exceeds the taxpayer's tax liability, the taxpayer does not receive a refund of the excess, but may carry-forward the unused amount to subsequent taxable years.✓

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

- 3 SECTION 1. 71.10 (4) (gbm)✓ of the statutes is renumbered 71.10 (4) (hb).✓

BILL

SECTION 2

1 **SECTION 2. Initial applicability.**

2 (1) This act first applies to taxable years beginning on January 1, 2012.

3 (END)

Parisi, Lori

From: Rep.Danou
Sent: Wednesday, February 29, 2012 11:00 AM
To: LRB.Legal
Subject: Draft Review: LRB 11-4154/1 Topic: Changing the order of computation for the dairy and livestock investment credit

Please Jacket LRB 11-4154/1 for the ASSEMBLY.